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A** BAVENDER
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LILIANA E. WARD
HOWARD M. WEISS
NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH. P.L.L.C

ATTORNEYS AT LAW
11th FLOOR 1300 NORTH 17th STREET
ARLINGTON VIRGINIA 22209-3801

OFFICE (703) 812-0400

FAX (703) 812-0486

www.fhhlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUSAS
CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)
OF COUNSEL
EDWARD A. CAINE
DONALD J. EVANS
EDWARD S. O'NEILL
WRITER'S DIRECT

(703) 812-0453
petro@fhhlaw.com

January 16, 2003

By Hand Delivery

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

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JAN 16 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Rc: Comments of
The Arkansas Broadcasters Association,
The Mississippi Association of Broadcasters, and
The New Mexico Broadcasters Association
MM Docket No. 98-204

Dear Ms. Dortch:

Transmitted herewith, on behalf of the Arkansas Broadcasters Association, the Mississippi Association of Broadcasters, and the New Mexico Broadcasters Association, is an original and nine copies of its Comments in the above-referenced proceeding.

Should any questions arise concerning this application, please communicate with this office.

Sincerely,

Lee G. Petro

Enclosures

cc: Qualex International
Ms. Wanda Hardy, Media Bureau - Room 2-C221

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JAN 16 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of: }

Review of the Commission's Broadcast
and Cable Equal Employment
Opportunity Rules and Policies }

MM Docket No. 98-204

TO: THE COMMISSION

JOINT COMMENTS ON
THIRD NOTICE OF PROPOSED RULEMAKING

The Arkansas Broadcasters Association, the Mississippi Association of Broadcasters, and the New Mexico Broadcasters Association (collectively, the "*Joint State Associations*") respectfully submit these Joint Comments in response to the *Third Notice of Proposed Rulemaking* in the above-referenced proceeding.² The *Third NPRM* solicited further comments regarding the proposal to extend the Commission's newly-adopted EEO rules to the outreach and recruitment of part-time employees.

As discussed in more detail below, the Joint State Associations oppose the extension of the Commission's EEO recruitment requirements for full-time vacancies to include part-time vacancies as well. The Commission traditionally has not required broadcasters to comply with its EEO rules with respect to part-time positions, i.e., positions involving less than 30 hours a week. and the Joint State Associations believe that the extension of the EEO recruitment requirements to part-time positions would cause severe and unnecessary hardships on broadcast licensees in small and medium-sized markets.

¹ Joint State Associations are nonprofit organizations whose members comprise substantial numbers of the radio and television broadcasters in the states of Arkansas, Mississippi, and New Mexico. Joint State Associations represent broadcasters with respect to issues confronting the broadcasting industry and strive to promote the best interest of the broadcasting industry generally.

² *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Third Notice of Proposed Rule Making, 17 FCC Rcd 24,018 (2002) ("Third NPRM").

DISCUSSION

Since the inception of its EEO rules, the Commission has declined to extend the specific outreach and recruitment rules for full-time positions to part-time positions. Instead, the Commission has stated that its primary focus when reviewing EEO recruitment efforts is on full-time vacancies from the full-time requirements.³ As recently as its 2000 *Report and Order*, the Commission continued to exclude part-time positions.⁴ Thus, it is clear that the FCC has considered this matter previously, and concluded that the requirements otherwise placed on full-time positions would be too burdensome if applicable to part-time positions as well. Nothing has been submitted to the Commission that would require a change in this policy.

The Joint State Associations' members mainly are comprised of broadcasters in small and medium-sized markets, and would be substantially harmed if the FCC were to apply the recently-adopted EEO rules to part-time positions as well. There has been no demonstration that any problems exist in the area of hiring part-time employees. On the other hand, the sole alternative for many of its members would be to eliminate such opportunities due to the financial and staffing obligations that would result from the adoption of such rules. The trend toward automation, particularly among smaller stations, would likely be accelerated.

For example, the Commission's recently adopted rules would require substantial record-keeping obligations if applied to part-time positions. If rules similar to those in place for full-

³ See *Enterprise Media of Toledo, L.P.*, 12 FCC Rcd 3920, ¶ 10 (1997)(citing *WFSQ(FM)*, 7 FCC Rcd 6045, 6046 (1992)).

Review Of The FCC's Broadcast And Cable Equal Employment Opportunity Rules And Policies And Termination Of The EEO Streamlining Proceeding, Report and Order, 15 FCC Rd 2329, ¶ 110 (2000) ("[u]nder our former EEO Rule, we expected broadcasters to recruit for part-time positions but did not focus on part-time hires in our review of EEO programs. We see no reason to depart from this policy, which serves to minimize burdens on broadcasters, especially smaller broadcasters. We will include a provision in our Rule clarifying that, in the case of part-time hires, broadcasters need only substantially comply with the requirement to recruit for every vacancy.").

time positions were adopted, small and medium sized broadcasters would be forced to expend their limited resources for each part-time position, including:

- a) maintaining lists of all jobs filled, identified by job title;
- b) contacting and maintaining records regarding each of the recruitment sources used to fill each vacancy, including any organizations which requested notification; the address, contact person and telephone number of each recruitment source used to fill each position;
- c) maintaining dated copies of all advertisements, letters, e-mails, faxes, etc. used to fill each vacancy;
- d) maintaining records listing the total number of interviewees for each vacancy and the referral source for each interviewee
- e) maintaining records providing the date each job was filled and the recruitment source that referred the hiree;

9 compiling records for all positions filled during the previous year;

These requirements would require additional staffing and administration just to maintain a part-time staff, including college interns, skilled, and unskilled positions alike.

The Joint State Associations believe that part-time positions are a valuable tool to introducing broadcasting opportunities to the local community, including minorities. Should the Commission require that broadcasters implement similar EEO record-keeping procedures as those in place for full-time positions, broadcasters will lose their ability to spontaneously respond to new and innovative opportunities. The likely unintended consequence of extending the recruitment and record keeping requirements to part-time positions is that fewer part-time positions will be created

For example, should a broadcaster located near a college decide to employ a roving student reporter on campus during finals week, it would have to start preparing for such efforts months in advance. Moreover, it would be limited in its ability to affirmatively respond to requests for coverage of local community events. Such opportunities are critical for introducing

the world of broadcasting to the new generation by broadcasters with limited budgets. Increasing the burdens of such part-time hires will only serve to deter the creation of such positions.

As noted above, broadcasters would be forced to engage in a cost-benefit analysis each time an opportunity arose, instead of responding quickly to events in their communities. The other possible alternative is that the broadcasters will install automation devices, and reduce the ability to broadcast local, community events.

Finally, it should be noted that part-time positions are the best stepping stone for future broadcasters by limiting financial and contractual exposure for broadcasters all the while providing opportunities for the local community to become exposed to broadcasting in a more flexible manner. Part-time positions provide an ideal opportunity for members of the local community to be exposed to the broadcasting industry in a manner that provides a benefit to both the broadcaster and the employee. The Commission points to no record that current part-time hires are not representative of the community as a whole. In the absence of such a record, the Commission's proposed "cure" is likely to cause more harm than good.

CONCLUSION


The adoption of EEO rules and procedures for part-time positions that are similar to those adopted for full-time positions would substantially inhibit the use of part-time employees, and limit the exposure of new opportunities for the entire community, including minority applicants. The Commission's general policy prohibiting discrimination for all employment positions, along with those of the EEOC, adequately addresses any possible discrimination in filling part-time positions. Should the Commission adopt substantial record-keeping requirements, many broadcasters would elect not to hire part-time employees, since the overall benefit would be

reduced. Rather than cure a problem that does not exist, adding this burden on small to medium sized broadcasters could lead to the decline of the use of part-time employees.

Therefore, the Joint State Associations urge the Commission not to extend its EEO recruitment and outreach substantial record-keeping requirements to include part-time positions.

Respectfully submitted,

**ARKANSAS BROADCASTERS ASSOCIATION,
MISSISSIPPI ASSOCIATION OF BROADCASTERS, and
NEW MEXICO BROADCASTERS ASSOCIATION**

By: 

Vincent J. Curtis, Jr., Esquire
Frank R. Jazzo, Esquire
Lee G. Petro, Esquire

Their Counsel

Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Arlington, VA 22209
(703)812-0400

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